

### REMARKS

Claims 46-74 are currently pending in the application. Reexamination and reconsideration of the application are respectfully requested in view of the following remarks.

Applicants note with appreciation that the previous rejections under 35 USC 112 have been withdrawn. Applicants note with appreciation that the previous rejections under 35 USC 102 and 103 and the double patenting rejection in the 7/13/07 Office Action have been overcome by the previously submitted claim amendments and arguments.

Claims 46-48, 52-56, 60, 61 and 65-74 stand rejected under 35 U.S.C. 102(b) as being anticipated by Takahashi (JP H9-251347). Claims 49, 57 and 62 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi as applied to claims 48, 54, and 61. Claims 50, 51, 58, 59, 63, and 64 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi and further in view of Matzke (USP 4,736,191). The Examiner stated:

“As shown in Figs. 5b-5d and noting in paragraphs [0039]-[0041], Takahashi further teaches that the gimbal action of the touchpad (52) is configured to enable the touchpad (52) to float relative to the housing while being constrained thereto, thereby enabling the touchpad *to rotate about X and Y axes* by pressing on the left or right side of the touchpad (52) and *to move downwards or upwards* by pressing in a middle portion of the touchpad. In other words, Takahashi teaches the touchpad (52) moving in multiple degrees of freedom relative to the housing. The above mentioned disclosure also teaches a left rotation of the touchpad to cause a left click action for making a selection.” (emphasis added)

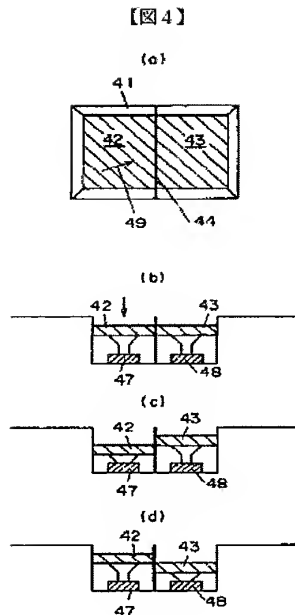
These rejections are respectfully traversed. For the reasons explained below, Takahashi does not teach or suggest either: (a) enabling a touchpad to rotate about X and Y axes by pressing on the left or right side of the touchpad, or (b) enabling a touchpad to move downwards or upwards by pressing in a middle portion of the touchpad. Takahashi does not teach or suggest the subject matter defined by claims 46-74.

Representative claim 46, for example, recites a portable media device comprising a number of elements in combination. The claimed combination includes a touchpad associated with

a housing. The claimed touchpad is capable of a gimbal action relative to the housing. The claimed gimbal action of the touchpad is configured to enable the touchpad to float relative to the housing while being constrained thereto, thereby enabling the touchpad to move in multiple degrees of freedom relative to the housing.

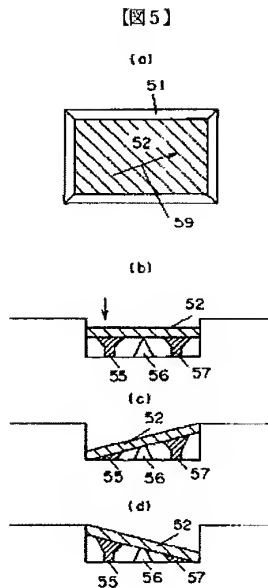
By gimbal, it is generally meant that the touch pad is able to float in space relative to the frame while still being constrained thereto. The gimbal may allow the touch pad to move in multiple degrees of freedom (DOF) relative to the housing. For example, movements in the x, y and/or z directions and/or rotations about the x, y, and/or z axes ( $\theta_x$   $\theta_y$   $\theta_z$ ) (see paragraph 0061 of the application).

A similar combination of elements is neither disclosed nor suggested by Takahashi. Takahashi's touch sensitive panel does not gimbal. Takahashi discloses two embodiments having touch sensitive panels that move. Takahashi's first embodiment is shown in Figures 4(a)-(d), reproduced below. Takahashi's second embodiment is shown in Figures 5(a)-(d), also reproduced below. In each of these embodiments the touch sensitive panel exhibits only one degree of freedom. It does not gimbal.



In a first embodiment (Figures 4(a)-(d) above), Takahashi's touch-sensitive panel is divided into two halves – a left-hand panel 42 and a right-hand panel 43. Each panel moves independently, but each panel moves only vertically. Each panel has only a single, vertical, degree of freedom. Left-hand panel 42 moves vertically between an “up” position (Figure 4(b)) and a “down” position (Figure 4(c)). Right-hand panel 43 moves vertically between an “up” position (Figure 4(b)) and a “down” position (Figure 4(d)) (See Takahashi at paragraphs 0026-0031).

Consequently, in Takahashi's first embodiment each of the touch sensitive panels exhibits only one degree of freedom – movement in a vertical direction. In Takahashi's first embodiment the panels do not gimbal.



In a second embodiment (Figures 5(a)-(d) above), Takahashi's touch-sensitive panel 52 pivots relative to the frame along a fixed support 56. In this second embodiment the touch-sensitive panel 52 pivots between a left-click position (Figure 5(c)) and a right click position (Figure 5(d)) (See Takahashi at paragraphs 0035-0040).

In this embodiment Takahashi teaches rotation about a single axis, defined by the fixed support structure 56. Takahashi teaches that pushing down on the left-hand side of panel 52 will cause the panel to rotate counterclockwise about this single axis, as shown in Figure 5(c). Takahashi teaches that pushing down on the right-hand side of panel 52 will cause the panel to rotate clockwise about this single axis, as shown in Figure 5(d). However, there is no teaching or suggestion in Takahashi enabling the panel 52 to rotate about two separate and distinct axes. There is no teaching or suggestion in Takahashi enabling the panel 52 to rotate about both an X axis and a Y axis. The assertion made in the 12/12/07 Office Action that Takahashi teaches enabling a touchpad to rotate about X and Y axes by pressing on the left or right side of the touchpad is incorrect. Takahashi teaches rotation about a single axis, defined by the support structure 56.

Moreover, there is no teaching or suggestion in Takahashi enabling the touchpad to move downwards or upwards by pressing a middle portion of the touchpad. In Takahashi's Figure 5 embodiment the panel moves rotationally, not vertically. Takahashi teaches that pushing down on the left-hand side of panel 52 will cause the panel to rotate counterclockwise about fixed support member 56, as shown in Figure 5(c). Takahashi teaches that pushing down on the right-hand side of panel 52 will cause the panel to rotate clockwise about fixed support member 56, as shown in Figure 5(d). However, there is no teaching or suggestion in Takahashi that the panel 52 may be moved up or down vertically by pressing the middle of the panel. The middle of the panel is supported by support member 56. The support member 56 is fixed, not moveable. The support member 56 enables the panel to rotate, but prevents the panel from moving vertically. The assertion made in the 12/12/07 Office Action that Takahashi teaches that the panel may move downwards or upwards by pressing a middle portion of the touchpad is incorrect. Takahashi teaches that the panel may move rotationally, not vertically, about a single axis defined by the fixed support structure 56.

Consequently, in Takahashi's second embodiment the touch sensitive panel exhibits only one degree of freedom – rotational movement about a fixed pivot axis. In Takahashi's second embodiment the panel does not gimbal.

In addition, there is no teaching or suggestion in Takahashi of a touch sensitive panel that both rotates and moves vertically, combining both the vertical embodiment shown in Figures 4(a)-(d) of Takahashi and the pivoting embodiment shown in Figures 5(a)-(d) of Takahashi.

In summary, there is no teaching or suggestion in Takahashi of a combination including a touch sensitive panel that gimbals or has multiple degrees of freedom, as defined by claims 46-74. It is therefore respectfully submitted that claims 46-74 are patentably distinguishable over the cited and applied references.

Claims 46-74 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 6, 7, 11, 16 and 19 of USP 7,046,230 in view of Takahashi.


The rejection on the ground of nonstatutory obviousness-type double patenting is respectfully traversed for the reasons given above with respect to the rejection under 35 USC 103. Takahashi is the sole reference relied upon for an alleged teaching of gimbaling. However, for the reasons discussed above, Takahashi fails to disclose or suggest gimbaling. Consequently, the rejection based on obviousness-type double patenting should be withdrawn.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 106842000600.

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Respectfully submitted,

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